

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ERIC GERARD,

§

Plaintiff,

§

v.

§

PAIGE N. TEMPLE, *ET AL.*,

§

Defendants.

§

CIVIL ACTION NO. 5:21-CV-00055-RWS

ORDER

Before the Court is the Report and Recommendation of the United States Magistrate Judge (Docket No. 16), which contains her findings, conclusions and recommendation for the disposition of this matter. The Report recommends that Defendants Paige Temple and Michael Britt's Motion for Summary Judgment (Docket No. 15) be granted. *Id.* The Court hereby adopts the Report and Recommendation of the Magistrate Judge as the findings and conclusions of this Court.

Plaintiff Eric Gerard, proceeding pro se, filed the above-titled and numbered civil action complaining of alleged violations of his constitutional rights. Docket No. 1. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636. The Defendants answered the lawsuit (Docket No. 12) and filed a motion for summary judgment based on exhaustion of administrative remedies (Docket No. 15). After review of the pleadings and evidence supporting Defendants' motion for summary judgment, the Magistrate Judge issued a Report recommending the motion for summary judgment be granted and the lawsuit dismissed. Docket No. 16.

Plaintiff received a copy of the Magistrate Judge's Report on October 28, 2021 (Docket No. 17), but filed no objections. Plaintiff is, therefore, barred from *de novo* review by the District

Court of the Magistrate Judge's findings, conclusions and recommendations; and, except upon grounds of plain error, Plaintiff is barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017).

The Court has reviewed the pleadings in this cause of action and the Report of the Magistrate Judge. Upon such review, the Court concludes that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (where no objections to a Magistrate Judge's report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"), *cert. denied*, 492 U.S. 918 (1989). Accordingly, it is

ORDERED that the Report of the Magistrate Judge (Docket No. 16) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that Defendants' Motion for Summary Judgment (Docket No. 15) is **GRANTED**. It is further

ORDERED that Plaintiff's above-titled cause is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust administrative remedies. It is further

ORDERED that any and all motions currently pending in this civil action are hereby **DENIED-AS-MOOT**.

So ORDERED and SIGNED this 25th day of January, 2022.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE